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IN THE SUPREME COURT OF THE STATE OF IDAHO

2004 Opinion No. 65

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	
)	
v.)	Docket No. 29698
)	
RAYMOND LLOYD MORTON,)	
)	
Defendant-Appellant.)	

Appeal from the District Court of the First Judicial District, State of Idaho,
Kootenai County. Hon. John T. Mitchell, District Judge.

The judgment of the district court is affirmed.

Frederick G. Loats, Coeur D'Alene, for appellant.

Hon. Lawrence G. Wasden, Idaho Attorney General, Boise, for respondent.
Kenneth K. Jorgensen argued.

This case came to the Idaho Supreme Court after the district court ruled against Raymond L. Morton's (Morton) requests to dismiss the criminal charges against him because the statute he was charged under is unconstitutional.

Morton was charged with the crime of Possession Of Sexually Exploitative Material For Other Than A Commercial Purpose. After Morton's first appearance in court, he asked the district court to dismiss the charges on the grounds that the statute he was charged under violated the First Amendment of the United States Constitution because it prohibited more conduct than necessary.

After holding oral arguments, the district court denied Morton's requests to dismiss the charges. Morton then entered a conditional guilty plea reserving his right to appeal from the district court's decision denying his requests to dismiss the charges. Morton appealed to this Court, arguing the district court was incorrect.

The judgment of the district court is affirmed. Idaho Code §§ 18-1507A and 18-1507 are not unconstitutionally overbroad because they sufficiently narrow the scope of

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their prohibition and avoid criminalizing an intolerable range of constitutionally protected conduct. No costs are awarded.